

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the patent application of:

Wen-Cherng Lee, et. al.

Confirmation No. 2278

Application: 10/510,459

Art Unit: 1625

Filed: 8/25/2005

Examiner: Aulakh, Charanjit

Attorney Docket: 223255-120994

For: TRI-SUBSTITUTED HETEROARYLS AND METHODS OF MAKING AND
USING THE SAME

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
UNDER 37 C.F.R. §1.705(d)

Dear Sir:

1. On March 30, 2009, Applicant filed a request for reconsideration of patent term adjustment (hereinafter "PTA"), which was denied, because it was premature. Applicant was advised to wait until the patent issue date was known and then file a new request for patent term adjustment. "Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702 (b). The computer will not undertake the § 1.702 (b) calculation until the actual date of issuance of the patent has been determined." From paragraph 3, pg.1, of the response to the Application for Patent

Term Adjustment filed on March 30, 2009. The patent from this application, U.S. Patent No. 7,612,094, issued on November 3, 2009, as projected. This request is now timely and appropriate as it is filed with the 2 month period after a patent issues according to 35 U.S.C. §154(b). As stated by the Office, "applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d)." From paragraph 5, pg.2, of the response to the Application for Patent Term Adjustment filed on March 30, 2009.

2. This is a request for reconsideration of the PTA which, according to the "Determination of Patent Term Adjustment Under 35 U.S.C. §154(b)" mailed on November 3, 2009 is 563 days. Applicant believes the PTA should be 901 days.

3. In compliance with 37 C.F.R. §1.705(b), Applicant submits herewith the following:

- (1) The fee set forth in 37 C.F.R. §1.18(e); and
- (2) A separate statement of facts involved specifying:
 - (i) The correct patent term adjustment and the basis under §1.702 for that adjustment;
 - (ii) The relevant dates as specified in §§ 1.703 (a) through (e) for which an adjustment is sought and the adjustment as specified in § 1.703(f) to which the patent is entitled;
 - (iii) Whether the patent is subject to a terminal disclaimer and any expiration date specified in the terminal disclaimer; and

(iv)(A) Any circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such applications as set forth in §1.704; or

(iv)(B) That there were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in §1.704.

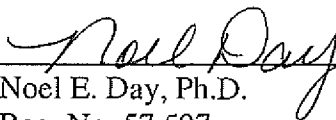
4. In accordance with 37 C.F.R. §1.705(b), Applicant hereby authorizes the payment of the fees set forth in 37 C.F.R. §1.705(b)(1). Please charge the fee set forth in 37 C.F.R. §1.18(e) (\$200.00 or the current amount) to our Deposit Order Account No. 503145 referring to our docket number 223255-120994. Please charge any necessary additional fees or credit any overpayments to our Deposit Order Account No. 503145.

5. A separate statement of the facts in compliance with 37 C.F.R. §1.705(b)(2) providing specified items in 37 C.F.R. §1.705(b), or number 2 above, is attached and submitted with this application for patent term adjustment and request for reconsideration under 37 C.F.R. § 1.705(b).

Respectfully submitted,

By: Honigman Miller Schwartz and Cohn LLP

Date: December 22, 2009


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